

## FACSIMILE COVER SHEET

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DATE: August 17, 2012COVER SHEET & 2 PAGES

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Brian G. Svoboda	(202) 434-1654	(202) 654-9150

RECIPIENT:	COMPANY:	TELEPHONE:	FACSIMILE:
Station Manager	WPGH - Sinclair Broadcast Group Pittsburgh, PA	(412) 931-5300	(412) 931- <del>4284</del> 8135

\*Please see attached letter re: False NRCC Advertisement\*

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August 17, 2012

**Re: False NRCC Advertisement**

Dear Station Manager:

We are counsel to the Democratic Congressional Campaign Committee. We write regarding an advertisement by the National Republican Congressional Committee (NRCC) offered to your station to attack Representative Mark Critz. Your station need not run the advertisement, and is fully responsible for its claims. Because the advertisement is false, and because the NRCC either knows that it is false, or has disregarded information that provides notice of its falsity, your station should reject it.

The advertisement claims first that, by voting against the repeal of the Affordable Care Act, Representative Critz joined "in the government takeover of health care." It claims second that the Affordable Care Act "cuts \$700 billion from Medicare, putting more than 850,000 Pennsylvania seniors at risk of losing some of their benefits."

These claims are false:

*First*, the claim that the Affordable Care Act represented a "government takeover of health care" was labeled the "2010 Lie of the Year" by the editors and reporters of the Pulitzer Prize-winning PolitiFact, which said bluntly: "The phrase is simply not true." Citing its own study of the bill, and interviews with multiple independent health experts, PolitiFact "concluded it is inaccurate to call the plan a government takeover because it relies largely on the existing system of health coverage provided by employers." <http://www.politifact.com/truth-o-meter/article/2010/dec/16/lie-year-government-takeover-health-care/>. Several other independent sources have reached this same judgment. Yet the NRCC would have your station repeat this thoroughly discredited claim, in order to falsely attack Representative Critz.

*Second*, the claim that the Affordable Care Act "cuts \$700 billion from Medicare" is also false. In the last four days alone, independent news organizations have reported that the Affordable Care Act "doesn't cut Medicare" (<http://go.bloomberg.com/political-capital/2012-08-13/medicare-truth-behind-the-cuts/>), and that the specific claim of more than \$700 billion in Medicare cuts is "dubious" ([http://www.cbsnews.com/8301-18563\\_162-57494197/romneys-\\$716b-medicare-cut-attack-is-dubious/?tag=socsh](http://www.cbsnews.com/8301-18563_162-57494197/romneys-$716b-medicare-cut-attack-is-dubious/?tag=socsh)).

These reports followed months of similar, independent examinations that debunked this very same attack. For example, in June 2011, the Washington Post reported that, under the Affordable Care Act, "Medicare spending continues to go up year after year." [http://www.washingtonpost.com/blogs/fact-checker/post/fact-checking-the-gop-debate-500-billion-in-cuts-to-medicare/2011/06/14/AGsnGAVH\\_blog.html](http://www.washingtonpost.com/blogs/fact-checker/post/fact-checking-the-gop-debate-500-billion-in-cuts-to-medicare/2011/06/14/AGsnGAVH_blog.html). In September 2010, FactCheck.org, a project of the Annenberg Public Policy Center, judged the claim of Medicare cuts to be "misleading," noting that "the program isn't being cut below existing levels, or even stopped in its tracks. It will simply grow slightly less than it would have otherwise -- about 7 percent less." <http://www.factcheck.org/2010/09/misleading-onslaught-by-60-plus/>.

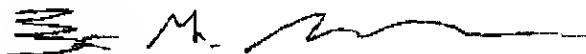
FactCheck.org noted further that "the law specifically protects seniors' benefits. Section 3601 says that nothing in the statute 'shall result in a reduction of guaranteed benefits under title XVIII of the Social Security Act' (that's the part of the U.S. Code that establishes the Medicare program)." <http://www.factcheck.org/2010/09/misleading-onslaught-by-60-plus/>. Thus, the NRCC's claim that the law put "more than 850,000 Pennsylvania seniors at risk of losing some of their benefits" is revealed to be completely false, even before one considers that Representative Critz was not even a Member of Congress when the Affordable Care Act was passed.

Unlike federal candidates, independent political organizations do not have a "right to command the use of broadcast facilities." See *CBS v. DNC*, 412 U.S. 94, 113 (1973). Because you need not air this advertisement, your station bears responsibility for its content when you do grant access. See *Felix v. Westinghouse Radio Stations*, 186 F.2d 1, 6 (3rd Cir.), cert. denied, 314 U.S. 909 (1950).

Moreover, you have a duty "to protect the public from false, misleading or deceptive advertising." Licensee Responsibility With Respect to the Broadcast of False, Misleading or Deceptive Advertising, 74 F.C.C.2d 623 (1961). Failure to prevent the airing of "false and misleading advertising" may be "probative of an underlying abdication of licensee responsibility" that can be cause for the loss of a station's license. *Cosmopolitan Broad. Corp. v. FCC*, 581 F.2d 917, 927 (D.C. Cir. 1978).

This advertisement is false, misleading, and deceptive, and your station should reject it. Please call us at (202) 654-6200 if you have any questions regarding this matter, and we would appreciate it if you would please inform us of your decision. Thank you for your attention.

Very truly yours,



Brian G. Svoboda  
Andrew H. Werbrock  
General Counsel  
Democratic Congressional Campaign Committee

Attachments